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**FEB 02 2005**

To: Commissioner for Patents for Examiner James D. Ratten Group Art Unit 2122	Facsimile No.: 703/872-9306
From: Michele Morrow Legal Assistant to Gerald H. Glanzman	No. of Pages Including Cover Sheet: 32
<b>Message:</b>  Enclosed herewith: <ul style="list-style-type: none"><li>• Transmittal Document;</li><li>• Response to Notification of Non-Compliant Appeal Brief;</li><li>• Copy of Notification of Non-Compliant Appeal Brief; and</li><li>• Appeal Brief.</li></ul>	
Re: Application No. 09/726,290 Attorney Docket No: AUS9-2000-0449-US1	
Date: Wednesday, February 02, 2005	
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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Kehne et al.**Serial No.: **09/726,290**Filed: **November 30, 2000**For: **Method and Apparatus for  
Updating New Versions of Firmware  
in the Background****35525**PATENT TRADEMARK OFFICE  
CUSTOMER NUMBER§ Group Art Unit: **2122**

§

§ Examiner: **Rutten, James D.**

§

§ Attorney Docket No.: **AUS9-2000-0449-US1**

§

Certificate of Transmission Under 37 C.F.R. § 1.8(a)

§

§ I hereby certify this correspondence is being transmitted via facsimile to the  
§ Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450,  
§ facsimile number (703) 872-9306 on February 2, 2005.

§

By: Michelle Morrow

Michelle Morrow

TRANSMITTAL DOCUMENTCommissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

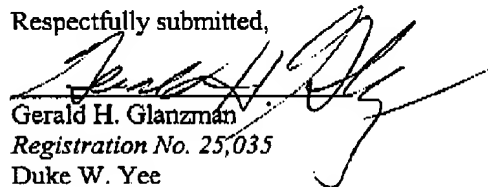
Sir:

ENCLOSED HERewith:

- Response to Notification of Non-Compliant Appeal Brief;
- Copy of Notification of Non-Compliant Appeal Brief; and
- Appeal Brief (37 C.F.R. 41.37).

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0447.

Respectfully submitted,

  
Gerald H. Glanzman

Registration No. 25,035

Duke W. Yee

Registration No. 34,285

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ATTORNEYS FOR APPLICANTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 02 2005

In re application of: **Kehne et al.**

§ Group Art Unit: 2122

**Serial No.: 09/726,290**

§  
§ Examiner: Rutten, James D.

**Filed: November 30, 2000**

§ Attorney Docket No.:AUS9-2000-0449-US1

## For: Method and Apparatus for Updating New Versions of Firmware in the Background

**Certificate of Transmission Under 37 C.F.R. § 1.8(n)**

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By: Michele Monow  
Michele Monow

## **RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0447.

In response to the Notification of Non-Compliant Appeal Brief dated January 4, 2005, please reconsider the above-identified application as follows:

Remarks/Arguments begin on page 2 of this paper.